



4410-15

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree and Release of Draft Restoration Plan under The Comprehensive Environmental Response, Compensation, and Liability Act

On July 18, 2019, the Department of Justice lodged a proposed consent decree with the United States District Court for the Middle District of North Carolina in the lawsuit entitled *United States, the State of North Carolina, and the Commonwealth of Virginia v. Duke Energy Carolinas, LLC*, Civil Action No. 1:19-cv-00707.

The settlement resolves civil claims by the United States, the State of North Carolina, and the Commonwealth of Virginia (collectively the “Trustees”) against Duke Energy Carolinas, LLC (“Duke Energy”) under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) for injury to, impairment of, destruction of, and loss of use of natural resources in the Dan River in North Carolina and Virginia as a result of a coal ash spill from Duke Energy’s Dan River Steam Station near Eden, Rockingham County, North Carolina on February 2, 2014 (the “Release”). Under the proposed Consent Decree, Duke Energy will restore, replace, rehabilitate, or acquire the equivalent of those resources injured by the Release and compensate the public for lost recreational opportunities, as proposed in the draft Restoration Plan. In addition, Duke Energy agrees to pay \$57,310 to the Trustees for restoration planning and oversight costs. Duke Energy will receive from the Trustees a covenant not to sue for natural resource damages under CERCLA, the Clean Water Act, and applicable state law.

In accordance with CERCLA, the Trustees have also written a draft Restoration Plan that describes proposed alternatives for restoring the natural resources and natural resource services injured by the Release. The four preferred restoration alternatives selected by the Trustees in the draft Restoration Plan are: 1) Abreu Grogan Park improvements; 2) establishment

of public boat launch facilities on the Dan River; 3) Pigg River Power Dam removal (benefiting the endangered Roanoke logperch); and 4) Mayo River land conservation. These are the same projects that Duke Energy agrees to perform in the Consent Decree.

The publication of this notice opens a period for public comment on the proposed Consent Decree and draft Restoration Plan. Comments on the proposed Consent Decree should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, the State of North Carolina, and the Commonwealth of Virginia v. Duke Energy Carolinas, LLC*, D.J. Ref. No. 90-5-1-1-11057/2. All comments must be submitted no later than forty-five (45) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

| <i>To submit comments:</i> | <i>Send them to:</i> |
|----------------------------|---|
| By e-mail | pubcomment-ees.enrd@usdoj.gov |
| By mail | Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611 |

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$39.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is \$9.75.

Comments on the draft Restoration Plan may be submitted to the Trustees either by email or by mail:

| <i>To submit comments:</i> | <i>Send them to:</i> |
|----------------------------|--|
| By e-mail | Sara_Ward@fws.gov or Susan_Lingenfelter@fws.gov |
| By mail | USFWS Virginia Field Office 6669 Short Lane Gloucester, VA 23061 Attn: Dan River Restoration Plan |

All comments must be submitted no later than forty-five (45) days after the publication date of this notice. During the public comment period, a copy of the draft Restoration Plan will be available electronically at https://www.cerc.usgs.gov/orda_docs/CaseDetails?ID=984. A copy of the draft Restoration Plan may also be examined at the Virginia Ecological Services Field Office. Arrangements to view the documents must be made in advance by contacting Susan Lingenfelter at (804) 824-2415.

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Environment and Natural Resources Division.*

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